



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0210; Notice 2]

Newell Coach Corporation, Grant of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Grant of Petition

**SUMMARY:** Newell Coach Corporation (Newell) has determined that certain motor homes that it manufactured between June 17, 1996 and August 26, 2008, do not fully comply with paragraph S5.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120 *Tire Selection and Rims for Motor Vehicles with a GVWR of More than 4,536 Kilograms (10,000 pounds)*. Newell filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* on September 9, 2008.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Newell has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on December 19, 2008 in the Federal Register (73 FR 77876). No comments were received. To view the

petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2008-0210."

**CONTACT INFORMATION:** For further information on this decision, contact Mr. John Finneran, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-0654, facsimile (202) 366-5930.

**TIRES INVOLVED:** Affected are approximately 456 motor homes manufactured by Newell between June 17, 1996 and August 26, 2008. Newell explains that the noncompliance is that the tire and rim information lettering engraved on the vehicles' certification labels<sup>1</sup> is only 1.8 millimeters high, as opposed to the 2.4 millimeter height required under paragraph S5.3 of FMVSS No. 120.

**SUMMARY OF NEWELL'S PETITION:** Newell stated that it discovered the noncompliance after investigating an inquiry from National Highway Traffic Safety Administration (NHTSA) concerning readability of the tire and rim information on the vehicles' certification labels.

Newell argues that while the required tire and rim information lettering is only 0.6 mm (about 1/45 of an inch) shorter than the 2.4 mm height required by the standard that it

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<sup>1</sup> 49 CFR Part 567 states the requirements for the certification label. FMVSS No. 120 states the requirements for tire and rim information included on a certification label.

creates no risk to motor vehicle safety. Newell believes that all of the relevant information is set forth on the certification label, and that it is easily readable.

Newell further states that for vehicles manufactured from 2002 through 2008, if an operator has difficulty reading the information on the certification label, the tire inflation information is available in the owner's manuals provided with the vehicles.

Newell additionally stated that it has provided tire inflation information in the Newell's News, a newsletter that Newell sends to its customers. Newell also points out that the rim size and type are marked on the wheels of the vehicle, and the tire designation is marked on the tires themselves, thus providing a further source for most of the information required by the standard.

Newell also believes that NHTSA has previously granted at least one petition for inconsequential noncompliance where the facts were almost identical to those stated in this petition. Moreover, Newell believes that on numerous occasions NHTSA has granted petitions for inconsequential noncompliance where there has been a complete omission of required tire and/or rim information on the certification label.

Finally, Newell notes that these vehicles have been on the road for up to 12 years, and the company has not received any

consumer complaints regarding an inability to read the tire and rim information on the certification label.

Newell also stated that it has corrected the problem that caused these errors so that they will not be repeated in future production.

In summation, Newell states that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

**NHTSA'S ANALYSIS AND DECISION:** Section 5.3 of FMVSS 120 specifically states:

S5.3 Each vehicle shall show the information specified in S5.3.1 and S5.3.2 and, in the case of a vehicle equipped with a non-pneumatic spare tire, the information specified in S5.3.3, in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the format set forth following this paragraph. This information shall appear either-

(a) and (b)...

NHTSA notes that the certification labels in question are constructed of clear polymer plates that are 3 mm in thickness. Lettering is engraved on the reverse side of the label plate. While the size of the lettering as measured on the back side of the label is only 1.8 mm in height, its apparent height when

viewed from the front (intended viewing side) of the label is 2 mm.

The agency agrees with Newell that the certification labels on the subject vehicles are likely to achieve the safety purpose of the tire and rim labeling. First, the tire size, and cold inflation pressure information required by FMVSS No. 120 is correct and contained in the label, and maximum inflation pressure is marked on the tires and the rim size is marked on the rims. Second, based on NHTSA's inspection of the sample nonconforming label provided by Newell, the letters can be easily read. Third, while NHTSA does not agree with Newell's assertion that the owner's manuals and newsletters provide all the information described by Newell, the information provided does supplement the information provided on the subject label. Lastly, NHTSA has elected to not address Newell's assertions on previous petitions for inconsequential noncompliance.

In consideration of the foregoing, NHTSA has determined that Newell has met its burden of persuasion that the subject FMVSS No. 120 labeling noncompliance is inconsequential to motor vehicle safety. Accordingly, Newell's petition is hereby granted, and Newell is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to approximately 456 vehicles that Newell no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Newell notified them that the subject noncompliance existed.

**AUTHORITY:** (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

**ISSUED ON:** May 1, 2013.

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Claude H. Harris, Director  
Office of Vehicle Safety Compliance

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